



Office of Governmental Affairs
P.O. Box 942720
Sacramento, CA, 94229-2720
Telecommunications Device for the Deaf - (916) 795-3240
(916) 795-3689, Fax (916) 795-3270

June 18, 2008

AGENDA ITEM 3c

TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE

I. SUBJECT: Senate Bill 1300 (Corbett) — As Amended
May 7, 2008

Disclosure of Health Care Pricing and Quality
Information to Consumers

II. PROGRAM: Legislation

III. RECOMMENDATION: Support If Amended

While this bill would provide greater transparency on health care cost and quality for our members, it should be amended to provide additional criteria to be used in the development of this information and make this information available to purchasers.

IV. ANALYSIS:

This bill would prohibit health care providers and health care plans or insurers from entering into a contract, which limits or restricts the plan or insurer from disclosing information on the cost of procedures or health care quality information to its subscribers, enrollees, policyholders, or insureds on or after January 1, 2009.

Background

Over the past several years, both the Legislature and the health care industry have sponsored demands for increased “transparency” with regard to information about health care costs, utilization, and outcomes. With more and better data, purchasers can make better educated decisions, and the industry can more swiftly identify and ameliorate problems.

State Level Considerations

Governor Schwarzenegger, in his recent health care initiative, proposed expanding and strengthening the Office of Statewide Health Planning and Development’s (OSHPD) ability to collect, integrate and distribute data on health outcomes, costs, utilization and pricing for use by providers, purchasers and consumers to inform and drive decision-making.

The California Health Policy and Data Advisory Commission (CHPDAC) advises OSHPD on health policy and health information issues. CHPDAC is a specially-funded Commission comprising 13 members, representing physicians, hospitals, long-term care facilities, business and labor coalitions, group prepayment health service plans, ambulatory surgery centers, and the general public. The Governor, Speaker of the Assembly and the Senate Rules Committee appoint the Commissioners.

The CHPDAC currently has three committees:

- The Technical Advisory Committee and Data Advisory Committee advises OSHPD on risk-adjusted outcomes studies of care in California hospitals.
- The Appeals Committee hears appeals by health facilities fined for late data reporting to the Office of Statewide Health Planning and Development.
- The Health Data and Public Information Committee reviews data collection issues relating to hospitals, long-term care facilities, clinics, home health agencies, and ambulatory surgery centers.

On March 6, 2007, the California Hospitals Assessment and Reporting Taskforce (CHART), a partnership between the California HealthCare Foundation and the University of California at San Francisco Institute for Health Policy Studies, launched its CalHospitalCompare.org web site. This Web site includes ratings for clinical care, patient safety, and patient experience for the 218 California hospitals that have chosen to participate in this voluntary project. The CHART project is part of a CalPERS strategic initiative, the Partnership for Change.

Federal Level Considerations

In 2006, President Bush signed an Executive Order titled, *Promoting Quality and Efficiency Health Care in Federal Government Administered or Sponsored Health Care Programs*. The Order directed federal agencies that administer or support health insurance programs to take steps that will result in more complete and open information about the quality and price of health care.

In April 2005, the Centers for Medicare and Medicaid Services (CMS) launched "Hospital Compare," the first government-sponsored hospital quality score card.

Proposed Changes

SB 1300 would ensure that health care cost and quality information is available to enrollees and would prohibit health care service plans or insurers from agreeing to any contract clauses preventing the distribution of this information. The bill does not apply to Long Term Health Facilities.

Health care providers must be involved in the development of the information, and must be provided with the final version 30 days before the plans and insurers

make the information publicly available. The providers may then submit additional information or corrections. There is no specific mechanism or process for resolving differences between the providers and plans and insurers or taking into account quality differences.

Legislative History

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| 2008 | AB 2967 (Lieber) – Would establish a sixteen-member Health Care Cost and Quality Transparency Committee under the CHHS Agency, to develop, implement and monitor a health care cost and quality transparency plan. [CalPERS Position: Pending] |
| 2007 | AB 8 (Nunez) - Would have created a statewide health care system and included a provision to establish a Health Care Cost and Quality Transparency Committee similar to AB 2967. AB 8 was vetoed. [CalPERS position: None] |
| 2007 | AB X1 2 (Nunez) – Would have created the Health Care Cost and Quality Transparency Committee of seven members to be appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly. This bill died in committee. [CalPERS Position: None] |
| 2007 | Chapter 698 (AB 1296,Torrico) – Requires CalPERS health plans to disclose to CalPERS the cost basis information and contract allowance amounts for health care services rendered by participating hospitals to each member and annuitant. That information is not available for public release or review. [CalPERS Position: Sponsor] |
| 2005 | Chapter 532 (AB 1045, Frommer) – Requires each hospital to submit to OSHPD its average charges for 25 common outpatient procedures and requires OSHPD to post the information on its Web site. [CalPERS Position: Support] |
| 2003 | Chapter 582 (AB 1627, Frommer) – Requires hospitals to: make available to the public their list of procedures pricing (charge masters) and to file them with OSHPD; compile and make available lists of charges for commonly performed procedures; and authorizes OSHPD to compile a list of the most common Medicare "diagnosis related groups" (DRGs), which is a system to group similar hospital cases, and their average charges. [CalPERS Position: Support] |

Issues

1. Arguments by Those in Support

According to the author, a recent Harris Poll found that consumers can guess the price of a new Honda Accord within \$300. But when asked to estimate the cost of a four-day hospital stay, they were off by \$8,100. A consumer does not buy a car without comparing not only cost, but the quality and reputation of the company and the car. Unfortunately, many consumers do not shop as carefully for health care.

The National Federation of Independent Business writes that banning prohibitions on disclosure of price and quality information will empower consumers to make responsible health care spending decisions which, in turn, will help control health care system costs. They argue that this is one piece of the puzzle for controlling and potentially reducing rising health care premiums and providing coverage options for uninsured Californians. Blue Cross of California supports the bill because consumers should have as much information as is possible when they are making health care decisions for themselves and for their families.

Organizations in support: AARP, AETNA, Amalgamated Transit Union, Blue Cross of California, California Alliance for Retired Americans, California Conference of Machinists, California Labor Federation, AFL-CIO, California Podiatric Medical Association, California Professional Firefighters, California School Employees Association, California Society for Clinical Social Work, California Teamsters Public Affairs Council, Congress of California Seniors, Engineers and Scientists of California, Health Access, IFPTE Local 21, International Longshore and Warehouse Union, National Federation of Independent Business, Service Employees International Union, United Food and Commercial Workers Union, Western States Council, UNITE HERE!, Safeway, Inc.

2. Arguments by Those in Opposition

Opponents argue that this bill will undermine competition and lead to higher health care costs for Californians. The California Medical Association (CMA) opposes this bill because, they assert, making this information available will give health plans and insurers even more power in negotiations with physicians and physician groups. They argue that too few companies control too much of the current insurance market, and any measure that grants them a greater advantage would adversely affect physicians and surgeons. CMA also claims that the information this bill will provide to consumers will be meaningless because the released information would not reflect the fact the providers care for patients whose cases vary greatly in complexity and difficulty.

The California Hospital Association (CHA) opposes this bill because they believe it would eliminate competition between health care providers by nullifying confidential contract clauses. They claim that public disclosure of this proprietary information undercuts competition in pricing hospital services. CHA also believes that knowledge of a rival's price would dilute incentives for parties to bid aggressively to create the most efficient network. They argue that the provisions of this bill are analogous to requiring a firm to reveal aspects of its proprietary cost structure to customers. CHA also points out that there already is a great deal of information available concerning pricing and quality.

Organizations in opposition: California Association of Physician Groups, California Hospital Association, California Medical Association, Sharpe HealthCare.

3. The Provisions of the Bill Don't Go Far Enough

While SB 1300 eliminates contract barriers to the public release of health care cost and quality information, it provides little direction as to what criteria would be used in the development of the cost and quality information provided by the health plans to the consumer. The bill lacks provisions for basic tools to measure and collect data related to health care safety and quality, utilization, health outcomes, and cost of health care services. This information could then be used to provide understandable and meaningful information for use by consumers.

4. Legislative Policy Standards

The Board's Legislative Policy Standards do not specifically address the issues in this bill. The Board's 2007-08 Health Legislative Priorities, however, suggest a support position on proposals that will create greater transparency in, and disclosure of, the cost of health care goods and services. SB 1300 could ensure that consumers have access to better information about health care costs and outcomes. However, since the bill lacks provisions for measuring data, staff recommends the Board adopt a Support If Amended position on this bill.

V. STRATEGIC PLAN:

This is not a product of the CalPERS strategic plan, but an ongoing responsibility of the CalPERS Office of Governmental Affairs.

VI. RESULTS/COSTS:

Program Costs

This bill would prohibit nondisclosure clauses in health care contracts that prevent public release of cost of procedures and quality information. This could increase transparency in the health marketplace, empowering consumers to make responsible health care spending decisions, resulting in lower health care system costs. This market environment could potentially assist CalPERS in providing health benefit programs with more value while controlling premium increases.

In contrast, CalPERS health plans may seek to increase premiums to offset the additional administrative costs associated with implementing the provisions of this bill.

Administrative Costs

If the CalPERS health program is required to validate cost or quality information released to our members from our health plans, the Health Branch would need additional staff to expand data validation activity.

Wendy Notsinneh, Chief
Office of Governmental Affairs

Gloria Moore Andrews
Deputy Executive Officer - Operations

Gregory A. Franklin
Assistant Executive Officer
Health Benefits Branch